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Montana Court Opinions

- A. FACTUAL AND PROCEDURAL BACKGROUND
B. STANDARD OF REVIEW

Exhibit No. 7
Date 8-13-07
SB No. SB 109

No. 05-072

IN THE SUPREME COURT OF THE STATE OF MONTANA

2006 MT 31

BRUCEEN FLEENOR,

Plaintiff and Appellant,

v.

DARBY SCHOOL DISTRICT, TRUSTEE CHAIR ROBERT
WETZSTEON,in his official capacity, TRUSTEE MARY LOVEJOY, in her official
capacity,

TRUSTEE ERIK ABRAHAMSEN, in his official capacity,

Defendants and Respondents.

APPEAL FROM: The District Court of the Twenty-First
Judicial District,

In and For the County of Ravalli, Cause No. DV 2004-283,

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rejected as “hypertechnical” the school board’s contention that a student’s mother lacked standing because another member of her activist group, rather than the mother herself, requested and was denied documents at issue in her challenge of a school closure). Such standing requirements are not, however, without limitation.

7. Even a broad reading of Article II, Sections 8 and 9 does not excuse Fleenor from meeting the well established standing requirements reflected in our jurisprudence. To establish standing to bring suit, the complaining party must (1) clearly allege past, present, or threatened injury to a property right or a civil right, and (2) allege an injury that is distinguishable from the injury to the public generally, though the injury need not be exclusive to the complaining party. *Bryan*, ¶ 20, citing *Armstrong*, ¶ 6. It is further well established that persons who fail to allege any personal interest or injury, beyond that common interest of all citizens and taxpayers, lack standing. *Flesh v. Bd. of Tr. of J. School Dist. 2* (1990), 241 Mont. 158, 162, 786 P.2d 4, 7 (citation omitted). The injury alleged must be personal to the plaintiff as distinguished from the community in general. *Carter v. Montana Dept. of Transp.* (1995), 274 Mont. 39, 42, 905 P.2d 1102, 1104 (citation omitted). Otherwise stated, the challenged action must result in a “concrete adverseness” personal to the party staking a claim in the outcome. *Bryan*, ¶ 20, citing *District No. 55 v. Musselshell County* (1990), 245 Mont. 525, 528, 802 P.2d 1252, 1254.
8. Fleenor attempts to distinguish herself from the general citizenry and other taxpayers by arguing that she is “actually interested in knowing and participating in the process of government.” She argues that her civic interest makes her “individualized enough to remove her sufficiently from the proscribed public generally” so as to grant her a personal stake in the outcome of the District’s hiring decision. In essence, Fleenor maintains that being an